The Fallacies of the Reform of Electricity Supply: CEP-Served Residential Retail Electric Market Study Report

A Response to the Maine Office of Public Advocate

Prepared on behalf of nrg

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Table of Contents

I. Introduction 2

II. Failure to Address the Directives of LD318 3

III. Fallacies of the OPA Consultant Report 6

A. Overview and Critique of the OPA Consultant Report 7

B. Debunking the OPA Consultant Report: A Detailed Examination 10

1. CEP Customer Decision Making 10

2. CEP Product Innovation 12

3. CEP Economic Contribution 12

4. Retail Electric Choice Can Offer Significant Savings Opportunity 13

5. CEP Pricing 16

6. The Gap Between Maine Utility and CEP Pricing 20

7. Renewable Products 21

IV. Conclusion 23

I. Introduction

The report[1] submitted by the Maine Office of Public Advocate ("OPA Report") pursuant to LD318, "Resolve, To Direct the Office of the Public Advocate To Study Reforming Maine's System of Retail Electricity Supply To Provide More Options to Maine Customers and Support Maine's Climate Goals" (Public Law 2021, Chapter 164) includes a one-sided and biased report prepared by one of the OPA's hired a consulting firms entitled the "*Reform of Electricity Supply: CEP-Served Residential Retail Electric Market Report*"[2] ("OPA Consultant Report"). At its core, the OPA Consultant Report falsely claims that Maine residential customers "lose" $20 million per year taking service from competitive electric providers ("CEP").[3] The report perpetuates this false claim and other related claims to recommend the abolishment of the residential retail electricity market in the state of Maine despite the fact that **most CEP electric supply offers currently posted on OPA's rate comparison website offer significant savings over prevailing 2023 Maine utility Standard Offer Service ("SOS") rates**. For example, NRG's retail brand affiliate, XOOM Energy offers 12- and 24-month residential fixed price products to all Maine residential customers that save them 26% over the Central Maine Power ("CMP") SOS Small rate, 21% over the Versant Power ("Versant") Bangor Hydro District SOS rate and 13% over the Versant Power Maine Public District SOS rate in every month of 2023.[4] **If all residential customers currently served by CMP and Versant SOS took advantage of the XOOM Energy offers the total market savings would be nearly $190 million for 2023 alone**.[5] Hardly a $20 million loss as purported by the OPA Consultant Report!

While the OPA Consultant Report proposed recommendation would clearly be deleterious to the state's competitive retail electricity market, it would also infamously establish Maine as the first state in the nation to eliminate retail electricity choice - - a market that first began 23 years ago on March 1, 2000. Further, the OPA's recommendation regarding its proposed public policy determinant concerning retail electricity choice casts a chilling effect that impacts all competitive or private sector enterprises currently in Maine or desires to invest in the future. Today, the OPA is attacking the retail electricity supply industry, but its recommendation may similarly impact other private enterprises and

[1] State of Maine Office of Public Advocate - Retail Electricity Supply Study Report (February 1, 2023)
[2] Reform of Electricity Supply: CEP-Served Residential Retail Electric Market (February 1, 2023) prepared by Susan M. Baldwin and Timothy E. Howington.
[3] See OPA Consultant Report, page 1
[4] See section *Retail Electric Choice Can Offer Significant Savings Opportunity*
[5] See section *Retail Electric Choice Can Offer Significant Savings Opportunity*

related business sectors in the future, including home heating oil, telecommunications, cable television, etc. Moreover, the OPA's study paternalistically presumes Maine residential customers lack the knowledge, judgment, or expertise to make informed buying decisions pertaining to their energy supplier and thus, their freedom to choose their supplier must be eliminated for their protection. This view is wrong-minded and suggests a degree of elitism.

To be clear, competition is the key driver to obtaining beneficial savings, attaining new and innovative products and services, and enhancing service quality and value to end-use customers. Nevertheless, the OPA Study proposes to eliminate residential retail electricity choice in the State of Maine, ignoring both the letter and spirit of LD 318.

II. Failure to Address the Directives of LD318

Before addressing the core elements of the OPA Consultant Report, it is important to address how the overall OPA retail study failed to address the legislative directives set forth in the LD318 from the 2022 legislative session. In this regard, OPA's performance in this matter falls short.

Firstly, in Sec. 1. of LD318, the "Resolve" states "*that the Office of the Public Advocate shall conduct a* ***study of options for reforming the State's current system of retail electricity supply in ways that will provide greater competition among retail electricity supply providers (emphasis added)*** *and more options and protections for customers, including access to renewable and clean energy supply options. The office shall examine options relating to the State's standard offer system for facilitating the achievement of the State's climate goals and beneficial electrification."*

- **Nonetheless, the OPA's No. 1 recommendation calls for the discontinuance of the residential retail electricity market effective January 1, 2024. The OPA Study lacks any constructive recommendations and/or initiatives to enhance or provide greater competition among retail electricity supply providers.**

In Sec. 2. of LD318, the "Resolve" states the "*Authority to retain consultant with regard to study on reform of retail electricity supply. That, in conducting the study under section 1, the Public Advocate may retain one or more consultants,* ***including, to the greatest extent possible, persons from academic or research institutions in the State for analysis and report preparation"*** **(emphasis added)**.

- **While the OPA is quick to publicly castigate many of the Competitive Energy Providers ("CEPs") that may have headquarters based outside of the state of Maine (as though that somehow negates conducting business in Maine), the OPA did not fully disclose the two**

lead consulting firms that prepared the OPA Study are located out of state. SM Baldwin Consulting is in Boston, MA, and Exeter Associates is located in Columbia, Maryland. It is not entirely clear how these two consulting firms were selected and the OPA's efforts to seek out persons from academic or research institutions in the State of Maine for analysis and report preparation.

In Sec. 3. of LD318, the "Resolve" states that in conducting the study, the Public Advocate shall ensure that, at a minimum, the following issues are examined.

1. The Public Advocate shall examine methods of protecting customer rights and interests including through the establishment of a public access website portal through which customers may obtain information on and shop for competitive electricity supply. The Public Advocate shall examine the feasibility of a publicly accessible website maintained by the Public Utilities Commission or by the Office of the Public Advocate that provides current, independent, and objective information that allows customers to compare terms, conditions and prices, and value-added service offers provided by competitive electricity providers, as well as any other information the Public Advocate or the commission determines would be useful to customers. The Public Advocate shall consider how to ensure customers may use the website to easily access external publicly accessible websites where customers may review offers and contract details and execute agreements electronically.

❖ **Despite the willingness and interests of CEPs to design and help implement a public access website portal that provides electricity consumers, especially residential consumers, with a consumer-friendly, easy to navigate shopping website that clearly discloses competitive rate plan offers, this important retail market enhancement receives limited consideration by the OPA**.

2. The Public Advocate shall examine the development and adoption of customer protections that include at least the following:
   A. Conditions for, or prohibitions on, any fees for residential customers seeking to change a product or pricing plan.
   B. Credits for excessive call center wait times.
   C. Education programs to inform customers about customer choices and protections and public service announcements by state agencies encouraging customers actively to shop for electricity supply options before winter and summer seasons when prices may be higher.
   D. Options for allowing retail electricity suppliers to bill for their electricity supply, value-added services, and products along with the local distribution company's regulated charges, as well as an examination of whether retail electricity suppliers should be allowed to collect electricity bills that include value-added services and products other than generation supply service and whether nonpayment of those portions of electricity bills should be subject to the threat of disconnection of service;

E. Publication, at least annually, of a competitive electricity provider report card that includes, but is not limited to, levels of verified complaints filed with the Public Utilities Commission against electricity providers.
F. Examining the advantages and disadvantages of variable-rate contracts for residential customers.
G. Requiring renewable energy products marketed by retail electricity suppliers to be consistent with the State's renewable energy resources laws.
H. Examining whether retail electricity suppliers should be allowed to conduct door-to-door sales only if the individual personally attempting to make a sale is employed by and supervised by the retail electricity supplier and whether the State's existing consumer protection laws adequately protect the State's retail electricity consumers; and
I. Programs to protect low-income customers that incorporate energy equity considerations, including but not limited to a hardship program that provides grants to qualifying low-income customers on an annual basis; a payment extension program that allows a qualifying low-income customer additional time to pay a bill without the threat of termination; a payment plan program that allows qualifying low-income customers to pay the balance owed in installments along with the regular monthly bill; a bill discount program that provides qualifying low-income customers with a fixed discount on their monthly bill; and other programs designed to increase access to renewable energy for such customers.

❖ **While the OPA Consultant Report does indeed provide recommendations related to consumer protections, many of the proposed measures are presented in a highly punitive manner directed at CEPs and customers alike. For example, one recommendation called for the prohibition of variable rate products by CEPs. With the substantial investment of ratepayer dollars and deployment of advanced or smart meter technology throughout the CMP and Versant service territories, it seems short-sighted to remove the ability of a residential customer to obtain beneficial time-varying rate ("TVR") designs, especially for those residential customers that have PV solar, electric vehicles, battery storage and/or heat pumps. CEPs like NRG can provide TVR products that can provide free nights and weekends or offer energy saving devices designed to help customers reduce or shift their energy loads to off-peak times when the price of electricity is less expensive.**

Another recommendation proposes to discontinue CEP service for those participating in energy assistance programs, despite beneficial savings that can be realized by these consumers. It is important to note that a similar recommendation was put forth in the state of Connecticut based on flawed assumptions and related methodologies provided by the author of the OPA Consultant Report that unfortunately led to the inability of economic hardship customers to shop for lower electricity rates offered by competitive retail suppliers. The action resulted in thousands of customers being denied their right to

obtain lower electricity rates. Accordingly, House Bill No. 6724[6] was introduced in the Connecticut General Assembly this session to provide these customers some degree of rate relief. The pending legislation would allow customers who are designated "hardship cases" to enroll with a retail electric supplier for their electric generation service if their contracts with the suppliers are entered into on or after March 1, 2023, for the standard service rate or less.

Short of the abolishment of residential retail electric choice in the state, as proposed by the OPA Consultant Report, companies like NRG are prepared to work within the legislative and regulatory arenas to develop and strengthen consumer protection measures as well as new retail market enhancements that protect and provide greater value to Maine's electricity consumers.

III. Fallacies of the OPA Consultant Report

The OPA Consultant Report is a largely one-sided, opinion-based paper that masquerades as a serious, scientific analysis. However, the report is a highly sensationalized review devoid of critical analysis or research. The OPA Consultant Report draws upon data points from other jurisdictions and recirculates many anti-competition themes that have been repudiated and discredited based on flawed methodology and unsubstantiated data. For example, the OPA Consultant Report presents rudimentary Energy Information Administration ("EIA") data, compares it to known Maine utility Standard Offer Service ("SOS") rates from 2021 and falsely claims that proves Maine's residential electricity market must be abolished. The report further accuses CEPs of providing "fraudulent" renewable or green energy products to their customers despite providing no evidence to support this claim. The report was drafted in a manner that offered little analytical or scientific methodology in its investigation of the Maine retail electricity market. Nevertheless, despite any analytical findings, the report assails CEPs with pre-conceived and unfounded conclusions resulting in recommendations that the competitive retail electricity market is harmful and needs to be eliminated in favor of a return to utility monopoly supply service. As this report will demonstrate, the OPA Consultant Report presents an elementary view of the Maine residential market, ignores the current state of SOS rates, and downplays the benefits of consumer choice. Accordingly, the report and its unprecedented as well as unsettling recommendations should not be used to deny Mainers their right to choose.

[6] House Bill No. 6724 at 18- https://www.cga.ct.gov/2023/FC/PDF/2023HB-06724-R000029-FC.PDF

A. Overview and Critique of the OPA Consultant Report

Notably, the OPA Consultant Report claims that Maine "policy makers should phase out the residential retail electric supply market"[7]. The reasoning the OPA Consultant Report puts forth is the following:

1) ***CEP Customer Decision Making*** – the OPA Consultant Report implies that Maine residential customers, and low-income customers in particular, lack the ability to make informed buying decisions and therefore, they should be denied the ability to purchase CEP electric products as an alternative to utility SOS. In other words, choice should be taken away from these customers for their own good. This highly paternalistic viewpoint demeans Maine residential customers, who make complex purchasing decisions every day without assistance. Further, the OPA Consultant Report appears to treat all residential customers as a homogenous class that makes uniform buying decisions as well as simply ignores or fails to appreciate the multi-faceted reasoning behind customer purchasing decisions. For example, three-fifths of Maine households use fuel oil as their primary energy source for home heating, a larger share than any other state in the United States[8]. Mainers are perfectly capable of making affirmative buying decisions when it comes to home heating oil. These energy consumers can lock into a fixed price contract for a fixed term of service or opt for a month-to-month variable priced contract. Nevertheless, the OPA Consultant Report suggests that there is a dramatic distinction between home heating oil and competitive electricity supply.

2) ***CEP Product Innovation –*** the OPA Consultant Report uses the word "innovation" multiple times to state that "there is no evidence of" CEP product innovation[9], yet never defines the term "innovation" or explains what threshold must be met for a product to be considered "innovative." As such, the OPA Consultant Report simply states an opinion unbacked by reason, analysis, or evidence of any kind, yet insists this opinion be considered by regulators as a key motive to abolish retail consumer choice. However, for innovation to flourish and thrive, it requires the appropriate business and regulatory environment to do so. As a member of the OPA Retail Study Stakeholder Advisory Group, NRG noted the types of product innovation that could be deployed in Maine - - products

[7] See OPA Consultant Report, page 4
[8] U.S. Energy Information Administration (EIA) - Maine State Energy Profile (September 15, 2022)
[9] See OPA Consultant Report, page 1

that have already been placed into other markets. Beneficial products that are generally "bundled" with electricity supply such as community solar, residential battery storage, EV chargers, home energy management devices, home security technology, home warranty plans, to name of few. However, as stated above, to make the necessary level of capital investment to provide these innovative products and services, the business and regulatory environment need to remain stable and open to competition. The primary recommendation of the OPA Consultant Report which calls for the discontinuance of the residential retail electric market effective January 1, 2024, is the antithesis of a stable market environment. Contrarily, NRG believes that choice and competition benefit consumers. Moreover, NRG has a vision to help improve the retail electricity market through product innovation, competitive pricing, and enhanced consumer protection measures.

3) ***CEP Economic Contribution –*** despite having no analytical basis and citing only rudimentary data analysis, the OPA Consultant Report declares that the "*opportunity cost…of continuing the residential CEP market is substantial*"[10] and that CEPs don't contribute to Maine's economy because "with one exception, the CEPs that serve Maine's households are headquartered out of state".[11] The OPA Consultant Report clearly reflects a highly biased opinion that is only intended to discredit CEPs by suggesting that they need to be headquartered in Maine in order to provide value and quality service to Mainers. However, leading companies like Walmart, Apple, Staples as well as countless others are not headquartered in Maine. Yet, CEPs are being held to a different standard despite providing electricity supply products that Mainers buy by their own choice. Finally, it is hypocritical of the consultant to publicly criticize CEPs for being headquartered out of state when she herself does not reside in the State of Maine and yet is all too happy to take Maine taxpayer funding dollars.

4) ***CEP Pricing –*** using only high-level data downloaded from the U.S. Department of Energy EIA, the OPA Consultant Report declares that CEPs charge more to serve residential customers than they should so Maine should return to the old utility monopoly model that was in place 23 years ago. The report once again suggests that a paternalistic and

[10] See OPA Consultant Report, page 1
[11] See OPA Consultant Report, page 16

heavy hand must be imposed on residential customers for their own good and their right to make their own informed buying decisions should be eliminated. The OPA Consultant Report does this without any serious analysis of CEP product pricing and completely ignores the consequences of utility monopoly pricing.

5) ***The Gap Between Maine Utility SOS and CEP Pricing –*** the OPA Consultant Report declares that the gap between CEP residential prices and utility SOS residential prices "increased in recent years."[12] Setting aside that this so-called gap is meaningless, even the OPA Consultant Report's own debatable definition of "recent years" illustrates no such trend. Additionally, the most "recent years" we currently know of are 2022 and 2023 which saw CMP residential SOS prices rise by a whopping 173% from 2021 and Versant prices rise by 165%. While the OPA Consultant Report conveniently omits 2022 and 2023 from their CEP/SOS price gap analysis, it is highly doubtful the so-called increasing gap would have manifested in those years. Moreover, the OPA Consultant Report clearly demonstrates the analytical "gymnastics" the consultant used to arrive at a pre-conceived narrative based on a flawed methodological approach.

6) ***Renewable Products –*** the OPA Consultant Report declares that, despite not knowing the composition of CEP renewable or green energy products, such products do not meet the OPA Consultant Report's measure of "green." As such, no CEP green energy products actually exist, but the ones that do are overpriced. All of Section 6 of the OPA Consultant Report is pent either accusing CEPs of offering "fraudulent" green products or restating basic information about renewable energy standards, yet never offers evidence (much less proof) that CEP green energy products are anything other than what CEPs claim them to be. Moreover, instead of appropriately using the role of "consultant" as part of the OPA Retail Study Stakeholder Advisory Group, to objectively examine voluntary renewable energy products and the types of enhancements that can be made to better inform electricity consumers of green energy products, the author of the OPA Consultant Report chose to level false accusations against CEPs. NRG believes a constructive recommendation would relate to enhancing the customer-facing Environmental Disclosure Label to make the label contents easier to interpret and understand the type of product the customer is purchasing.

[12] See OPA Consultant Report, page 2

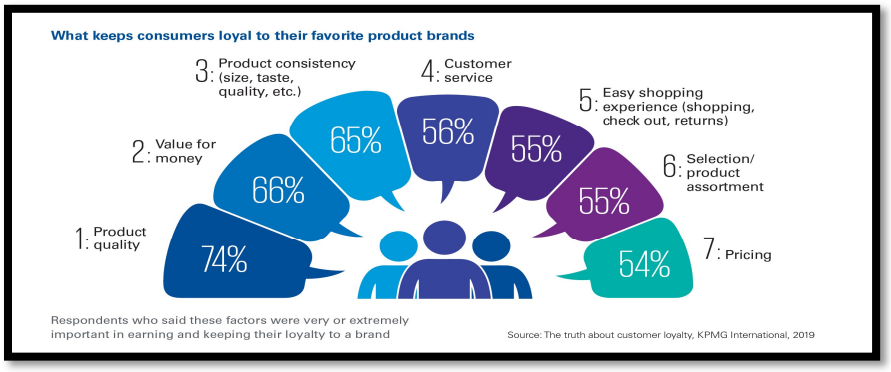
Finally, noticeably absent from the OPA Consultant Report is any discussion of whether Maine residential customers want the right to choose their energy supplier abolished and discontinued in favor of utility monopoly supply service. After twenty-three years, the opponents of retail electricity competition want to deny the right of Mainers to make an affirmative choice. It bears reiterating that customers are free to remain on utility SOS service if they prefer to, and yet not all of them do. A competitive market exists precisely because different consumers have different preferences, needs, and motivations. It is not for the OPA Consultant Report to decide what is best for all residential customers in Maine.

B. Debunking the OPA Consultant Report: A Detailed Examination

1. CEP Customer Decision Making

Opponents of retail electricity choice continually put forth a false narrative that choosing one's energy supplier is too complicated and beyond the capacity of residential consumers. However, residential customer purchasing decisions, whether for electricity or other products and services, are based on a range of overlapping factors. Consumers routinely make everyday purchase decisions for common items such as food, clothing, consumer goods, electronics, etc. Customers also engage in more complex purchase decisions for things like insurance, lease and rental agreements, financial services, entertainment subscriptions, and mobile phone and internet service. Shopping for a CEP is no more complex than these other everyday purchase decisions that customers are accustomed to making. In making these everyday buying decisions, consumers are motivated by various factors. The snapshot below from a 2019 KPMG report[13] summarizes some of the dimensions of consumer shopping decisions. This report summarizes the findings of a survey of thousands of customers worldwide.

Diagram 3.1: Results of KPMG Report



[13] Consumers reveal what keeps them coming back - KPMG Global

Of particular note, while price is an important factor in purchasing decisions, it is not the only important factor or even the most important factor according to the study.

While it may be easy to presume that electricity service is homogenous, CEPs offer a range of products differentiated along the same consumer preference dimensions:

Table 3.2 – CEPs Serve Consumer Preference Factors

Consumer Preference Factors	Differentiation Opportunities for Retail Energy Supplier Products
• Product Quality / Consistency	• CEP brand reputation • Complaint history • Ease of enrollment, billing accuracy, customer service quality
• Value for money	• CEP price competitiveness • Value of amenities, perks, etc. • Availability of fixed price options • Total bill management solutions (energy efficiency, etc.)
• Customer service	• Customer service experience for billing questions, renewal process, etc. • Complaint handling • Quality and type of ongoing customer communications (service portals, consumption analysis, expiration/renewal notices)
• Easy shopping experience	• Ease of enrollment process • Troubleshooting enrollment problems • Ease of price discovery and product comparison
• Selection/product assortment	• Availability of varying term lengths • Green energy options • Bundled products and services • Amenities/perks
• Pricing	• Competitiveness of supplier price versus other options (utility, other suppliers) • Term of service available • Competitiveness of renewal pricing • Availability of longer term, fixed price offers

The OPA Consultant Report ignores the possibility that Maine residential customers can make rational buying decisions for themselves and simply assumes customers who sign up for higher priced CEP services are incapable of understanding CEP products. The consultant appears to dismiss that some customers may want a longer-term contract with a fixed rate plan that can provide a customer with price certainty and predictability for a 12-, 24- or 36-month term of service. Regardless, the OPA Consultant Report failed to examine or ignore a recommendation to develop new consumer educational and outreach initiatives that would constructively assist Mainers to make better and more informed buying decisions, e.g., fixed vs. variable rate plans, rate plan offers without early termination fees, seasonable buying opportunities, etc.

2. CEP Product Innovation

Based on the Eco Watch website[14] and data provided by XOOM Energy, as result of Maine's electric market restructuring and retail choice, at the very least, the following CEP products are offered to residential customers that Maine regulated utilities do not offer:

- Variable one-month products
- Variable price products with two months fixed price
- Variable price products with three months fixed price
- 6-month fixed price products
- 7-month fixed price products
- 12-month fixed price products at start and end dates different from the utility
- 18-month fixed price products
- 24-month fixed price products
- 100% renewable products
- Green products (products with higher percentage green than the state required minimum)
- Products that donate to charity
- Products that provide airline miles

In addition to the many products CEPs offer that utilities do not, CEPs also offer customer service different from the utility, technology such as customer web portals and other amenities that prove attractive to existing and potential customers. Every one of these things is an innovation that differentiates a customer experience from utility SOS service.

In addition, Maine utility SOS itself, which is unbundled from delivery rates and sourced from a competitive wholesale market that is kept honest due to a competitive retail market, is an innovation of electric deregulation. Further, it is electric deregulation at the retail level that has been instrumental in the advent of solar, wind, hydrogen, fuel cells, and other technologies introduced across deregulated states, as CEPs connect with these technologies to bring them to their customer base. Furthermore, there are also demand side innovations such as smart thermostats and other energy saving devices that CEPs provide to their customers that reduce demand on the grid. To suggest, as the OPA Consultant Report does, that electric deregulation has resulted in no innovation simply ignores reality.

3. CEP Economic Contribution

Using no economic analysis, the OPA Consultant Report once again falsely claims that CEPs do not contribute to Maine's economy because only one CEP serving Maine is headquartered in Maine.[15]

[14] https://www.ecowatch.com/electricity/rates/me
[15] See OPA Consultant Report, page 16

Setting aside the absurdity that every CEP must be located in the state in order to contribute to a state's economy, nowhere in the OPA Consultant Report is there a discussion of even basic economic questions such as:

1) Do CEPs serving Maine pay taxes to the State of Maine?
2) Do CEPs serving Maine employ Maine residents as direct employees or contractors?
3) Do CEPs serving Maine employ companies in Maine such as marketing firms, sales firms, brokers, law firms, lobbyists, etc.?
4) Do CEPs serving Maine rent or own office space or other real estate in the state of Maine?
5) Do CEPs serving Maine provide products that Maine residents opt to buy by their own choice?
6) Do CEPs serving Maine do business with Maine utilities and generators?

The answer to every one of the questions above is yes, yet the OPA Consultant Report simply ignores these key economic considerations.

The OPA Consultant Report also claims that CEP residential customers in Maine pay $20 million more for CEP service annually than they would with utility SOS. The OPA Consultant Report makes this assessment based on a highly simplified analysis that compared basic EIA data to 2021 utility SOS prices. The EIA data used by the OPA Consultant Report is high-level and does not break down what competitive supply products were opted for by any residential customer, when a given product was purchased, or how it compares to SOS prices for the term of the product. For example, did the competitive supply product include 100% renewable energy content, an extended term of service, smart devices, home warranty plans, rewards points, gift cards, etc.? It is highly likely that some residential customers saved money with CEP service, but regardless, customers opted for CEP service of their own volition. As such, claiming that there is a $20 million opportunity cost is erroneous on its face as rational customers signed up for CEP service by their own choice.

The OPA Consultant Report's $20 million figure also does not account for the high SOS price increases that occurred in 2022 and 2023. Again, the OPA Consultant Report conveniently ignored 2022 and 2023 SOS price data to better support its anti-competition narrative as opposed to conducting a more balanced analysis of Maine's retail electricity market.

4. Retail Electric Choice Can Offer Significant Savings Opportunity

XOOM Energy Offers Nearly $190 Million in Savings Opportunities Over Utility SOS in CY2023

As of April 15, 2023, NRG retail brand affiliate, XOOM Energy offers 12- and 24-month residential fixed price products at a price of 12.99 cents per kWh available to any residential customer residing in CMP and Versant service areas regardless of zip code or customer income level.

Table 3.3: XOOM Energy Residential Supply Offers taken on 4/17/2023[16]

XOOM Energy	12.99	12.99	12 Months	No	888-997-8979
	12.99	12.99	24 Months		
	18.29 (50% Green)	17.19 (50% Green)	Variable		

By contrast, the SOS Small Customer Rate for CMP is 17.631 cents per kWh for 2023[17], while the Versant - Bangor Hydro District SOS Small rate is 16.438 cents per kWh for 2023[18] and the Versant - Maine Public District SOS Small rate is 14.879 cents per kWh for 2023.[19] As such, the XOOM Energy rate offers CMP residential customers a savings of 4.641 cents per kWh or 26% over SOS, and offers Versant residential customers a savings of 3.448 cents per kWh or 21% in Bangor Hydro District and 1.889 cents per kWh or 13% in Maine Public District for all of 2023.

Taken across the 2023 calendar year, these savings are quite substantial. Using the same EIA data source as the OPA Consultant Report, residential customer counts and load are reported for CMP and Versant. The relevant data taken directly from EIA is provided in ***Table 3.4*** below.

Table 3.4: Maine IOU residential customer counts and load for 2021[20]

2021 Utility Bundled Sales to Ultimate Customers- Residential

(Data from forms EIA-861- schedules 4A & 4D and EIA-861S)

Entity	State	Ownership	Customers (Cou	Sales (Megawatthou	Revenues (Thousand Dollars)	Average Price (cents/kWh)
Central Maine Power Co	ME	Investor Owned	503,190	3,608,474	593,980.0	16.46
Versant Power	ME	Investor Owned	126,991	808,993	143,018.4	17.68

Using values from ***Table 3.3*** and ***Table 3.4*** above, the total savings for each residential customer that takes advantage of the XOOM Energy rate can be derived for CY 2023:

Table 3.5: XOOM Energy Available Savings per Residential Customer in 2023

Year	Utility	SOS Small Rate (in $ per kWh)	XOOM Energy Rate (in $ per kWh)	XOOM Energy Savings (in $ per kWh)	Residential Customer Annual Usage (in kWh)[21]	2023 Residential Customer Savings with XOOM Energy Rate (in Total $)

[16] https://www.maine.gov/meopa/electricity/electricity-supply
[17] Standard Offer Rates for Central Maine Power - Residential and Small Commercial Customers | MPUC
[18] Standard Offer Rates for Versant Power - Bangor Hydro District - Small | MPUC (maine.gov)
[19] Standard Offer Rates for Versant Power - Maine Public District - Small | MPUC
[20] https://www.eia.gov/electricity/data.php#sales
[21] Figures are derived by dividing Sales (Megawatt-hours) by Customers (Count) in ***Table 2***

2023	CMP	$0.17631	$0.12990	$0.04641	7,171	**$332.82**
2023	Versant - Bangor Hydro District	$0.16438	$0.12990	$0.03448	6,370	**$219.65**
2023	Versant - Maine Public District	$0.14879	$0.12990	$0.01889	6,370	**$120.34**

Consequently, if all CMP and Versant customers opted to take service under the XOOM Energy rate, *the potential market wide savings would be approximately $190 million, as illustrated in Table 4.0 below (see highlighted below)*. Moreover, XOOM Energy is prepared to offer this 12.99 cents/kWh rate offer to all residential customers in CMP and Versant service areas.

Table 3.6: XOOM Energy Available Savings for Residential Market in 2023

Year	Utility	2023 Residential Customer Savings with XOOM Energy Rate (in Total $)	Customers (Count)[22]	Total Residential Market Available Savings for 2023 (in $)
2023	CMP	$332.82	503,190	**$167,469,278**
2023	Versant	$170.00[23]	126,991	**$21,587,978**
Total 2023 Available Savings				**$189,057,257**

CEP Regulation v Monopoly Utility Regulation

The OPA Consultant Report also alleges that the Maine competitive market should be abolished because "Ensuring compliance with regulations (addressing consumer complaints and pursuing enforcement actions) is time-consuming and resource-intensive."[24] This claim is simply another unsubstantiated attempt by the consultant to discredit CEPs, as one only needs to examine the time and resources required to regulate monopoly utilities. Cost of service regulation of a monopoly utility where ratepayers are effectively paying for the electric distribution service requires that every change in policy, product, system, pricing, and rate tariffs must be thoroughly investigated and approved by regulators through a time-consuming regulatory process, oftentimes in the form of an extensive rate case. Conversely, CEPs are supported by shareholder dollars that financially underpin their business

[22] Based on EIA 2021 figures
[23] Figure derived by averaging the Table 3.0 figures for Bangor Hydro District and Maine Public District
[24] See OPA Consultant Report, page 1

model. Moreover, CEPs make independent business and administrative decisions without burdening regulators and operate within the confines of state law and regulations.

5. CEP Pricing

The OPA Consultant Report claims that in 2021 "The rates that CEPs charged Maine households in 2021 ranged between $0.0670 per kWh and $0.1708 per kWh".[25] This statement, however, is false and exhibits a lack of fundamental understanding regarding the EIA data that was relied upon. The OPA Consultant Report uses EIA data table EIA-861 schedule 4B for 2021[26]. This data table, shows, among other things, the annual 2021 weighted average price charged by each CEP to residential customers in each state. It **does not show** (***emphasis added***) the high and low price charged by each CEP to residential customers, any specifics regarding CEP product term, product structure, green, add-on services, etc. For example, the OPA Consultant Report claims that the lowest price charged by a CEP in 2021 was $0.0670 per kWh, but that is false. The $0.0670 per kWh price is the "weighted average" price of all 2021 prices charged by a single CEP. As such, this charge is an average of prices both higher and lower than the price reported, meaning the lowest price charged by this CEP, much less any CEP, ***cannot*** be derived from this EIA table.

Additionally, the prices shown in EIA-861 schedule 4B encompass contracts that were entered into in previous years, as well as contracts entered in each month of 2021. It simply cannot be known how much any one residential customer benefited from any individual CEP product. Finally, there is no accounting in EIA-861 schedule 4B of additional value provided by any CEP product above the base commodity. For example, locking in a price for two years may require a premium, and add-ons like green or additional benefits may impact the product price as well.

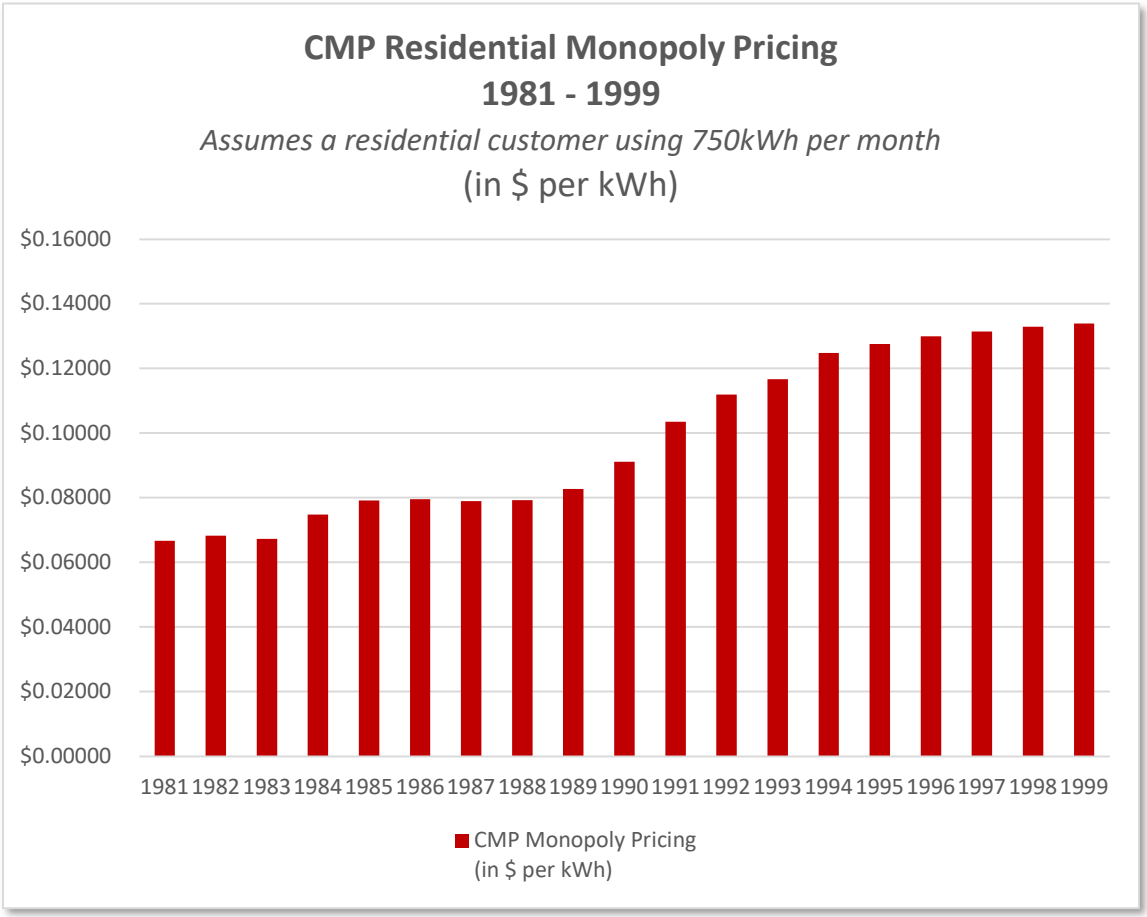
The bottom line is that the authors of the OPA Consultant Report fundamentally do not fully comprehend the EIA data sets that they are using in their assessment of the Maine retail electricity market yet are using this data to recommend the complete dissolution of the residential electricity market. Given the serious public policy implications, the impact on residential electricity consumers, and chilling message that Maine is not open to business, one would expect a study with more gravitas and scientific rigor before denying residential customers their freedom to choose their energy supplier.

[25] See OPA Consultant Report, page 1
[26] table12.xlsx (live.com)

Monopoly v Competitive Pricing

Another key element ignored by the OPA Consultant Report is the change in Maine retail electricity pricing that took place as the result of deregulation. ***Chart 3.7*** below shows the history of CMP residential monopoly electric service prices from 1981 through 1999, the year right before deregulation began. This data was obtained from the CMP website.[27] Regrettably, we could not find equivalent data for Versant (BHE).

Chart 3.7: CMP Monopoly Pricing



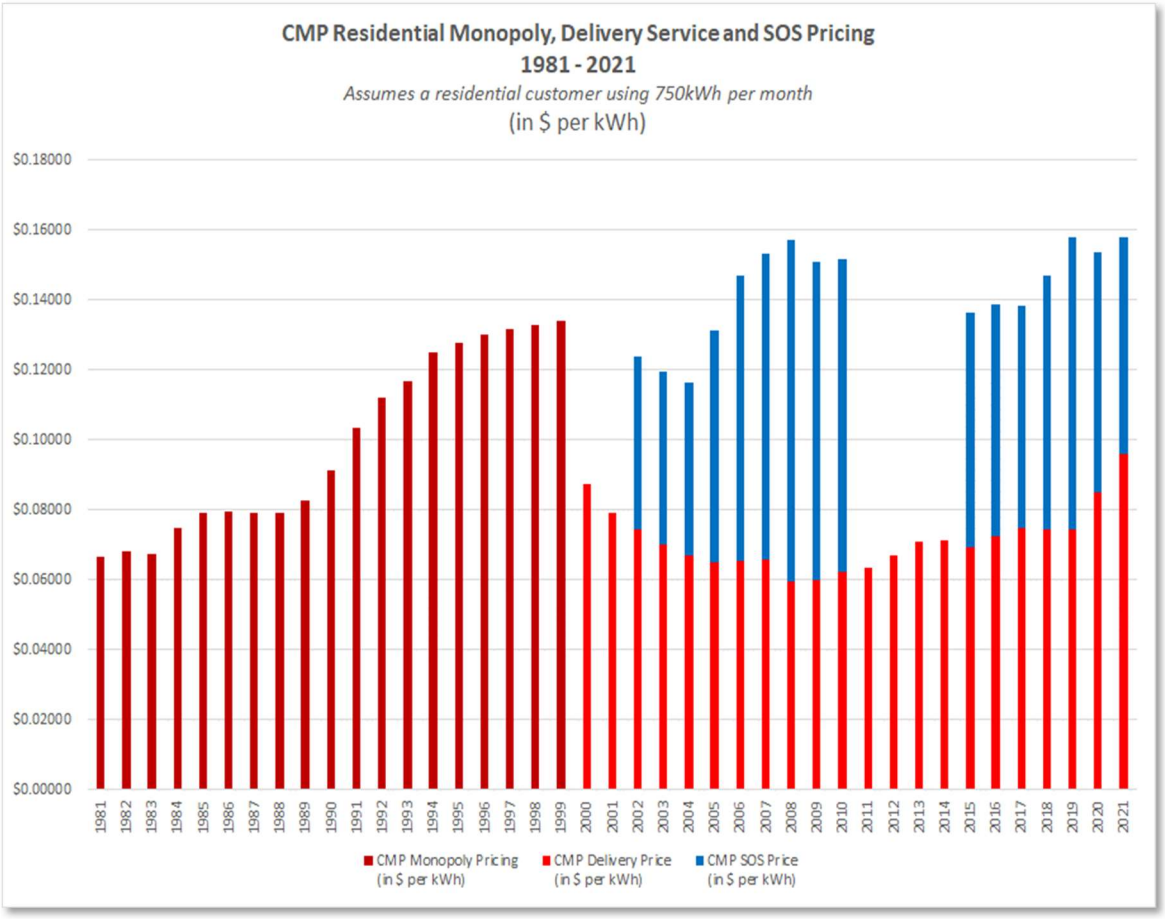
As shown in the chart, there was a consistent rise in the CMP monopoly price prior to deregulation. In fact, prices from 1981 to 1999 increased from $0.06668 per kWh in 1981 to $0.13391 per kWh in 1999, an increase of 101% in just 18 years. This story is not unique to electric monopoly service across U.S. states, as, with few or no exceptions, monopoly utilities continually lobby regulators to approve rate increases over time. In 2000, when Maine deregulated, the CMP monopoly price split into a

[27] https://www.cmpco.com/wps/wcm/connect/cmpagr_account/account/nc_understandyourbill/pricing/historicalpricing

delivery service price and an SOS price. Although we were not able to obtain the residential SOS price for each year in the set below, ***Chart 3.8*** shows how the CMP monopoly price prior to deregulation compares to the combined CMP residential delivery price plus SOS price (for the years we had data) from 2000 through 2021, a period of over twenty years.

Chart 3.8: CMP Monopoly and Unbundled Pricing

Note: CMP SOS prices for 2000-2001 and 2011-2014 could not be located. As such, no SOS prices (denoted in blue) for those years appear on the chart. However, this does not change the general point of the chart.



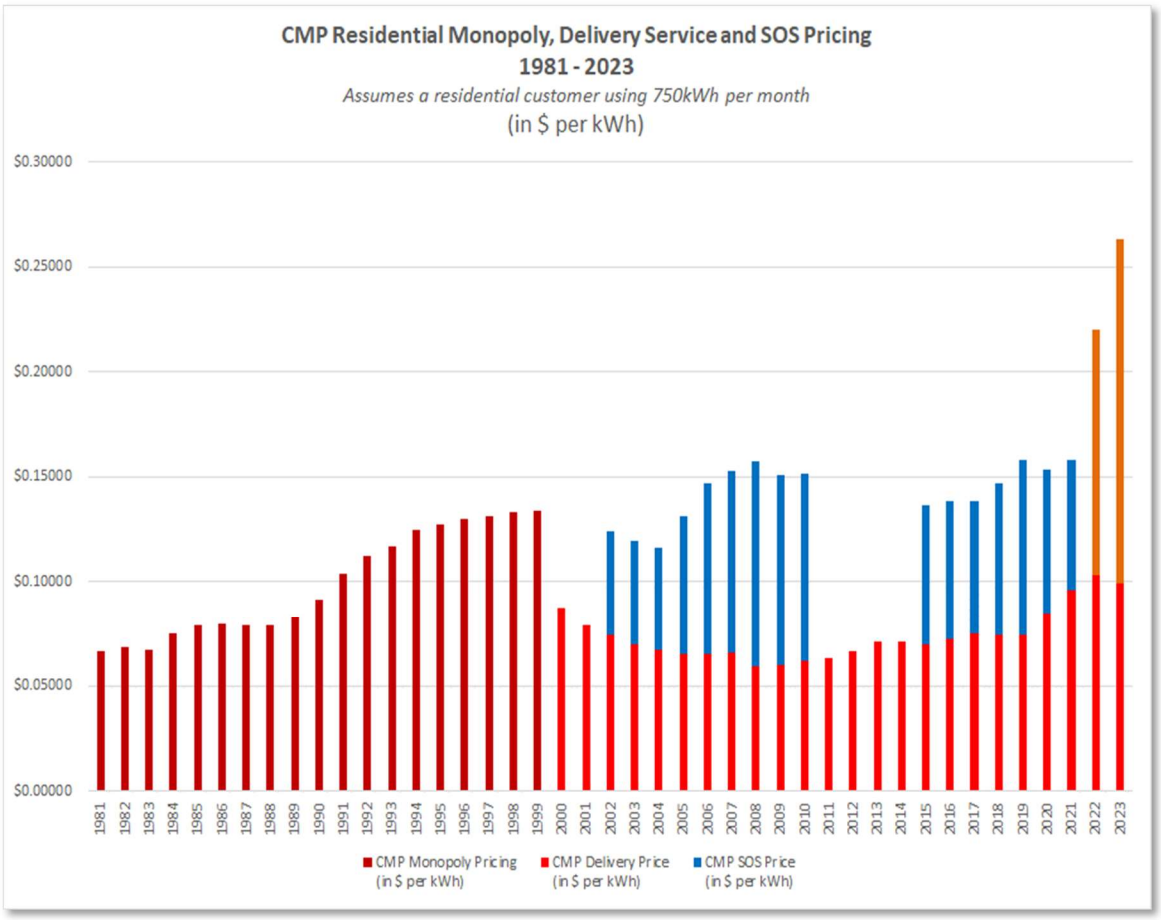
As shown on the chart, for the next 22 years after deregulation began the total combined price of CMP residential service (delivery plus SOS) rose from the 1999 monopoly price of $0.13391 per kWh to the combined delivery plus SOS price of $0.15795 in 2021, an increase of only 18%. Forcing customers back to monopoly service will undoubtedly create a never-ending cycle of price increases as competition will not be there to keep utility prices in line.

Price Increases in 2022 and 2023

Beginning in 2020, changes in federal government energy policy, combined with geopolitical forces resulted in a steady increase of fuel prices that has not yet abated. This trend, in turn, caused electricity prices across the country to rise in 2022 and 2023. CMP residential default prices increased a whopping 89% in 2022, and another 29% in 2023.

Chart 3.9: CMP Pricing with 2022 and 2023 Added

Note: CMP SOS prices for 2000-2001 and 2011-2014. As such, no SOS prices (denoted in blue) for those years appear on the chart. However, this does not change the general point of the chart. .



It is important to understand that energy price spikes caused by prevailing market conditions, federal government policy, geopolitics, or severe weather events like Winter Storm Uri cannot be simply wished away or negated by abolishing consumer choice. The key to dealing with energy price volatility is competition, which protects consumers with long run volatility hedges in the form of fixed price contracts, as well as drives innovative solutions that bring prices down in the long run.

Monopoly utilities across fifteen states lost billions of dollars because of Winter Strom Uri. The customers of those monopoly utilities are now being forced to pay for these losses so that monopoly utility shareholders are kept whole[28]. Conversely, the shareholders of CEPs impacted by Winter Storm Uri had to honor their customers' fixed price contracts despite losing hundreds of millions of dollars. Maine CEPs are no different. Residential CEP customers that entered 12 and 24-month fixed price contracts in 2020 and 2021, before SOS price spikes began, have, and will get their price for the contract term regardless of how much money they save or how much money CEP shareholders lose. Further, unlike the electric distribution companies, CEPs that may lose money on these or any contracts, are not subject to cost-of-service recovery and must absorb these costs. The OPA Consultant Report appears to ignore this key market distinction entirely, focusing instead on a historical year deliberately chosen before Maine utility SOS price spikes began in order to amplify an anti-competition narrative.

6. The Gap Between Maine Utility and CEP Pricing

The OPA Consultant Report claims that there has been a growing gap "in recent years" between CEP prices and Maine utility SOS prices, but the notion of a universal gap between CEP pricing and utility SOS is erroneous on its face. Each Maine utility provides one residential SOS price for a single product and term with no add-on options. By contrast, CEPs offer an array of residential offers that encompass different prices for different products with different start dates, terms, levels of green, and an assortment of bundled service options. As such, any comparison between CEP and SOS should be based on overall value to the customer, which may or may not be based on price alone. A customer locking in a 100% green product for 24 months that also provides airline miles may opt for that product regardless of whether the prevailing SOS price is lower or not. However, to the OPA Consultant Report, consumer preferences are irrelevant, the product price comparison to SOS at the time of contract is the only thing that should ever matter.

There is also no evidence that a trend of a widening gap between CEP prices and utility SOS rates has existed "in recent years" or ever. The OPA Consultant Report simply makes this up. The initial claim by the OPA Consultant Report is that the gap between CEP and utility pricing "increased in recent years" because "In 2018, on average, households paid between $150 and $200 more for electricity per year if they purchased from CEPs", but in "2021, on average, households paid between $310 and

[28] See Beyond Texas Evaluating Customer Exposure to Energy Price Spikes: A Case Study of Winter Storm Uri, February 2021

$340 more for electricity per year if they purchased from CEPs."[29] However, a chart provided in a later page of the OPA Consultant Report shows the so-called "overpayment" to CEP's in 2019 was between $306 and $347 and in 2020 was between $269 and $309.[30] In other words, even if the OPA Consultant Report's values were blindly accepted, there is no indication of any trend. One could just as easily say that the gap between CEP residential prices and utility SOS residential prices decreased in recent years because the OPA Consultant Report's CEP overpayment value is higher for 2019 than it is for 2021. The OPA Consultant Report also ignores the steep rise in Maine utility SOS prices in 2022 and 2023 which would show any gap between CEP and SOS pricing decreasing.

Other Markets

The OPA Consultant Report claims that there are "examples of harm" in other jurisdictions in terms of consumer overpayment to CEPs with respect to utility default rates. The OPA Consultant Report lists six states and also a "Nationwide" category.[31] However, the so-called "examples of harm" are nothing but subjective arguments, some even coming from the lead author of the OPA Consultant Report, which were refuted and not universally agreed upon. For example, the OPA Consultant Report's "example of harm" in Maryland sites a paper titled "*Maryland's Residential Electric and Gas Supply Markets: Where Do We Go from Here?*" prepared by Susan M. Baldwin and Sarah M. Bosley.[32] Much like the OPA Consultant Report, however, this paper was an opinion piece debunked under scrutiny[33]. Additionally, in the case of Illinois, one of the six states listed, no "example of harm" is even provided. Finally, it should also be noted that electric deregulation has not been abolished in any of the states listed, much less nationwide.

7. Renewable Products

Despite presenting no evidence or proof the OPA Consultant Report accuses CEPs of offering "fraudulent" green products and once again implies that Maine residential customers are not astute to shop for CEP service. The following are direct quotes from the OPA Consultant Report:

[29] See OPA Consultant Report, page 1
[30] See OPA Consultant Report, page 28
[31] See OPA Consultant Report, page 29
[32] See OPA Consultant Report, page 75
[33] https://www.resausa.org/new-analysis-reveals-flaws-in-recent-maryland-opc-and-the-abell-foundation-reports-on-retail-energy-market-independent-study-finds-electric-suppliers-could-have-saved-maryland-consumers-more-than-203/

- *"The "greenness" of CEP products is ambiguous at best and likely based on out-of-region fuel sources."*[34]
- *"Consumers may not understand that standard offer service is the same "shade of green" as is CEPs' basic products – because standard offer service is also based on a fuel mix that comports with Maine's renewable portfolio standards."*[35]
- "*A CEP pitching a "green" product generally does not provide the basis for this labeling. It is not clear, for instance, whether it is asserting that its product exceeds the minimum RPS requirement or merely complies with it. Further, if a CEP is asserting that it exceeds the minimum requirement, the basis for such a claim may be inaccurate or misleading, for instance regarding whether their incremental purchases are compliant with Maine RPS certification requirements. As a result, a CEP claim that it is offering a "green" product could be misleading.*"[36]
- *"The electricity being marketed* [by a CEP] *is not any "greener" than standard offer service, but consumers believe that it is."*[37]
- *"Consumers don't realize they are paying a larger mark-up to purchase products marketed as renewable than they would for other equally (or more) effective climate-friendly options"*[38]

To summarize, despite presenting no evidence or proof, the OPA Consultant Report claims as fact that:

1) *CEP green products may not exceed Maine's minimum green requirement.*
2) *Utility SOS is just as green as CEP green products.*
3) *Maine residential customers are not smart enough to shop for green products.*
4) *CEP green products are overpriced.*

CEP "green" products are defined as those that provide two basic categories or levels of renewable or green energy:

Level 1: The minimum state mandated requirements designed to meet Maine's annual Renewable Portfolio Standards ("RPS") compliance obligation.
Level 2: Voluntary green energy above the minimum state mandated requirement.

The OPA Consultant Report simply engages in speculation when stating that any CEP green product does not meet the definition stated above. Further, not a single example is provided that demonstrates how Maine CEPs buy renewable energy credits ("RECs") or how much they pay for RECs.

[34] See OPA Consultant Report, page 2
[35] See OPA Consultant Report, page 2
[36] See OPA Consultant Report, page 39
[37] See OPA Consultant Report, page 48
[38] See OPA Consultant Report, page 48

It is also speculation to suggest that CEP green products are "not any "greener" than standard offer service." Maine utility SOS only provides the state mandated minimum RPS requirements, while CEP voluntary green products provide a substantially higher percentage of green than the annual RPS minimum.

IV. Conclusion

Making significant changes to the rules, market structure, or design of Maine's retail electric market, much less abolishing it, should only be considered after a thorough analytical review and careful consideration of the public policy considerations and related consequences of such changes on customers. Accordingly, the unsubstantiated and prejudicial opinions provided in the OPA Consultant Report do not meet this critical threshold test and thus, should be dismissed as a valued resource, especially policies that may lead to the elimination of consumer choice in the State of Maine.